

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **March 23, 2004**

AGENDA ITEM NO.: 4

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Repeal of a Section of the City Code Regarding Interurban Buses and Motor Freight Carriers**

RECOMMENDATION: Repeal Sections 12-71 through 12-92 of the City Code that require a bus company or motor freight carrier that operates in the City and other locations in Virginia to obtain permission to operate in the City.

SUMMARY: Since June 8, 1943 the City Code has regulated bus companies and motor freight carriers that operate both within and outside of the City. Sections 12-71 through 12-92 of the City Code (copy attached) require such bus companies or motor freight carriers to submit an application to the City Manager requesting permission to provide service within the City. Pursuant to these sections, City Council is then required to hold a public hearing and issue a permit approving the route, the number of vehicles to operate, the tonnage and the capacity of each vehicle, and an off-street facility for receiving or discharging passengers. When these sections were added to the City Code there was no State regulation of these types of bus companies or motor freight carriers so it was necessary for the City to regulate them. The State Code now provides for regulation of these buses and motor freight carriers by the Division of Motor Vehicles ("DMV"). In light of the current State regulations, the City's authority to continue regulate these types of vehicles is uncertain. The City Attorney's Office and the City Manager's Office believe that since DMV is currently regulating these types of buses and motor freight carriers it is no longer necessary for the City to do so and that Sections 12-71 through 12-92 of the City Code can be repealed. Repealing these sections of the City Code will not eliminate the City's ability to regulate and require permits of buses that operate exclusively within the City limits.

PRIOR ACTION(S): None

FISCAL IMPACT: None.

CONTACT(S): Gladys L. Yates, 455-3977
Walter C. Erwin, 455-3973

ATTACHMENT(S): City Code excerpt; an ordinance repealing Sections 12-71 through 12-92

REVIEWED BY: lkp

Excerpt from the City Code

ARTICLE III. INTERURBAN BUSES AND MOTOR FREIGHT CARRIERS

DIVISION 1. GENERALLY

Sec. 12-71. Definitions.

The following phrases, whenever used in this article, shall have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

Interurban motorbus carrier. A motor vehicle carrier operating as a common carrier or restricted common carrier by motor vehicle of passengers.

Motor freight carrier. A motor vehicle carrier operating as a common carrier or restricted common carrier by motor vehicle of property.

Motor vehicle carrier. Every person owning, controlling, operating or managing any common carrier by motor vehicle or restricted common carrier by motor vehicle and operating as such common carrier or restricted common carrier by virtue of authority from the Interstate Commerce Commission or the state corporation commission, or both, and using the streets of the city in the business of transporting persons or property for compensation by motor vehicle. (Code 1959, § 7-31)

Sec. 12-72. Exceptions.

The provisions of this article shall not apply to any intraurban motorbus carrier operating under a certificate from the city council under the provisions of section 12-51, and which, in addition, may operate under authority from the state corporation commission over routes from the city to points outside the city within a radius of ten (10) miles, nor shall the provisions hereof apply to taxicabs operating under chapter 37. (Code 1959, § 7-39)

Sec. 12-73. Penalty for violation.

Any motor vehicle carrier or the driver of any such vehicle used in the business violating any of the provisions of this article shall be deemed guilty of a class 4 misdemeanor. Each day's violation by a motor vehicle carrier of any of the provisions of this article shall constitute a separate offense. (Code 1959, § 7-40)

Sec. 12-74. Prerequisite generally to operation.

No motor vehicle carrier shall operate any vehicle in or over the streets or bridges of the city without first obtaining permission from the city council and its approval of the routes, the number of vehicles to be operated and the tonnage and capacity of each, and until all taxes, fees or charges assessed against such carrier under the provisions of chapter 36 of this Code have been paid, and until registration has been issued to such carrier by the chief of police. (Code 1959, § 7-32)

Sec. 12-75. Vehicles used for intracity business.

A permit to operate a motor freight carrier granted under the provisions of this article shall not include the privilege of operating any vehicle for the purpose of transporting property from one point in the city to another point in the city. For any vehicle so used, a "truck for hire" license, required under section 36-131, shall be obtained. (Code 1959, § 7-37)

Sec. 12-76. Temporary emergency change in routes.

The chief of police shall have the authority in cases of emergency to grant to any motor vehicle carrier a temporary permit to vary from its regular route through the city. (Code 1959, § 7-34)

Sec. 12-77. Parking, stopping restricted.

No person driving an interurban bus shall park such bus in the streets of the city for the purpose of receiving or discharging passengers, or while waiting to begin a trip out of the city, except that the provisions of this section shall not prevent any such bus from stopping momentarily at a street corner for the purpose of receiving or discharging passengers along the regular route of such bus while the bus is en route between the bus terminal and the city limits, either incoming or outgoing, but in no case shall the same passenger be received and discharged within the corporate limits. (Code 1959, § 7-36)

Sec. 12-78. Terminals required.

No motor freight carrier shall use the streets of the city for the purpose of storing or parking vehicles used as common carriers or restricted common carriers, but such

vehicles shall be stored and parked in terminals located on private property and not within the street lines of any street of the city. (Code 1959, § 7-38)

DIVISION 2. OFF-STREET BUS FACILITIES

Sec. 12-86. Required.

Except for momentary stops permitted in section 12-77, it shall be unlawful for any interurban motorbus carrier to receive or discharge any passenger or baggage within the right-of-way lines of a city street or upon other public property. It shall be the duty of any interurban motorbus carrier receiving or discharging passengers or baggage within the city to provide an off-street facility on private property for the purpose, which off-street facility shall be subject to the approval of the city council. No interurban motorbus carrier shall use any such off-street facility until such approval has been granted, nor shall any person begin the construction, alteration or remodeling of such facility for the use of an interurban motorbus carrier until application has been made by such carrier to the council and the approval of council obtained, in addition to any other permits or certificates required under applicable sections of this code. (Code 1959, § 7-35 (a))

Sec. 12-87. Application.

An application for approval of any proposed off-street facility required by this division shall be filed with the city manager and such application shall be verified under oath and shall furnish the following information:

- (a) The name and address of the applicant;
- (b) Plans drawn to scale showing in detail the proposed location, size and shape of the proposed off-street facility, on which shall also be shown the street or streets on which such facility abuts; (c) The maximum number of buses or other vehicles to be accommodated within such off-street facility at any one time;
- (d) The maximum size and weight of buses or other vehicles to be accommodated therein;
- (e) Any facts which the applicant believes tend to prove that the proposed off-street facility contains sufficient space and is so designed that, at periods when the maximum number of buses and other vehicles is to be accommodated therein, buses may enter and leave such facility without backing into or out of such facility from or into a city street, without using improper traffic lanes when entering or leaving the

facility or without violating any provision of the state or city traffic laws or any city ordinance pertaining to the use of city streets;

(f) Proposed means of ingress and egress from and to a city street or streets;

(g) Proposed sidewalk or walkway crossing in connection with such ingress and egress, together with any facts which the applicant believes tend to prove that the proposed means of ingress and egress and the proposed location and design of any sidewalk crossing or pedestrian walkway crossing is not such as to create a hazard to the public using any street of the city;

(h) Plans for surfacing the off-street facility and for providing of necessary catch basins and other means for adequate drainage of the facility to the public sewer; and

(i) Such other pertinent information as the council may require. (Code 1959, § 7-35(b))

Sec. 12-88. Hearing.

Upon the filing of an application for off-street facilities required by this division, it shall be the duty of the city manager to bring the same to the attention of the council at its next regular meeting, whereupon the council shall fix a time and place for public hearing thereon. At least ten (10) days' notice of such hearing shall be given to the applicant by serving notice upon applicant or by sending same to him by registered mail, and at least ten (10) days' notice of such hearing shall be given the general public by publication in a newspaper of the city. At such hearing the applicant or any other person shall be heard in support of or in opposition to the approval of the application. (Code 1959, § 7-35 (c))

Sec. 12-89. Issuance of permit.

If, after the hearing as required by this division, the council finds:

(a) That the proposed off-street facility is of a size, shape and design that, at periods when the maximum number of buses and other vehicles is to be accommodated therein, buses may enter and leave such facility without backing into or out of such facility from or into a city street, without using improper traffic lanes when entering or leaving such facility and without violating any other provision of the state or city traffic laws or any city ordinance pertaining to the use of city streets;

(b) That the proposed means of ingress and egress to and from city streets and the proposed sidewalk or walkway crossings are not such as to create a hazard to the public using any street of the city;

(c) That the proposed plans for surfacing and draining the facility are adequate; and,

(d) That the applicant is able and willing to provide the facility in accordance with the application and to conform to all the provisions of this section;

the council shall cause to be issued a permit for the use of the facility by the applicant; otherwise the permit shall be denied. (Code 1959, § 7-35 (d))

Sec. 12-90. Construction, use, maintenance.

Whenever a permit is issued under this article, the applicant shall provide the facility strictly in accordance with his approved application and permit granted thereon, and shall thereafter operate, use and maintain the facility in accordance with such approved application and permit. It shall be unlawful for any applicant, after his application has been approved and permit issued, to reduce the size, shape or design of the facility, or to permit therein at one time a greater number of buses or other vehicles than the maximum number set out in the application, or to erect or install therein any building or structure or equipment of any kind that would result in the reduction of the space or change in design of such facility, or make any change in the means of ingress and egress and sidewalk crossings from that shown in the application, or in any way use, operate or maintain the facility in a manner other than that set forth in the approved application and permit granted thereon. (Code 1959, § 7-35 (e))

Sec. 12-91. Cancellation of permit.

Any permit granted under the provisions of this division shall be considered canceled if the off-street facility is not commenced within six (6) months from the date of its issuance and continued with diligence to the date of its completion. (Code 1959, § 7-35 (f))

Sec. 12-92. Violations; suspension, revocation of permit.

It shall be unlawful for any person to make any false representation upon any application filed under the provisions of this division, and it shall further be unlawful for any person to violate any of the provisions of this division. Any person who shall make any false representation upon any application filed hereunder or

who shall violate any of the provisions of this section shall be guilty of a class 2 misdemeanor. In addition, after due hearing and upon not less than ten (10) days' notice in writing to any applicant convicted of violation of any of the provisions of this division, such notice to be sent by registered mail or by personal service upon such applicant, the council may suspend or revoke the permit granted to such applicant. (Code 1959, § 7-35(g))

ORDINANCE

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF LYNCHBURG, 1981, BY REPEALING SECTIONS 12-71 THROUGH 12-92, THE REPEALED SECTIONS RELATING TO REGULATION OF INTERURBAN BUSES AND MOTOR FREIGHT CARRIERS.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That the Code of the City of Lynchburg, 1981, be and the same is hereby amended by repealing Sections 12-71 through 12-92.
2. That this ordinance shall become effective upon its adoption.

Adopted:

Certified:

Clerk of Council

040L